

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORDETEK ENVIRONMENTAL,	:	CIVIL ACTION
INC., et al.	:	
	:	
v.	:	
	:	
RDP TECHNOLOGIES, INC.	:	NO. 09-4714

ORDER

AND NOW, this 16th day of May, 2012, upon consideration of counterclaim plaintiff RDP Technologies, Inc.'s ("RDP's") amended counterclaims (docket entry # 112), RDP's motion for summary judgment (docket entry # 142), RDP's motion to enjoin Paul G. Christy from pursuing arbitration (docket entry # 143), counterclaim defendants Paul G. Christy ("Paul") and Nordetek Environmental, Inc.'s ("Nordetek's") motion to preclude expert opinion testimony by J. Mark Penny (docket entry # 144), Paul and Nordetek's motion for summary judgment (docket entry # 145), RDP's motion for contempt against Lisa Christy (docket entry # 156), and any memoranda, responses, replies, and exhibits filed regarding these submissions, and upon the analysis set forth in the accompanying Memorandum, it is hereby ORDERED that:

1. Paul and Nordetek's motion to preclude expert testimony (docket entry # 144) is GRANTED;
2. The expert report of J. Mark Penny (exhibit 25 to docket entry # 144) is PRECLUDED pursuant to Daubert v. Merrell

Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993) and Kumho Tire Co., Ltd. v. Carmichael, 526 U.S. 137 (1999);

3. Paul and Nordetek's motion for summary judgment (docket entry # 145) is DENIED;

4. RDP's motion for summary judgment (docket entry # 142) is GRANTED IN PART to the extent set forth in the next paragraph;

5. RDP is GRANTED summary judgment on (1) the "contract" and "breach" elements of Count I of its amended counterclaims and (2) the "duty" and "breach" elements of Count IV of its amended counterclaims (docket entry # 112);

6. RDP's motion to enjoin Paul G. Christy from pursuing arbitration (docket entry # 143) is DENIED;

7. RDP's motion for contempt against Lisa Christy (docket entry # 156) is DENIED;

8. By May 29, 2012, RDP's counsel shall SHOW CAUSE why they should not be sanctioned pursuant to Fed. R. Civ. P. 11(c) for misrepresenting the contents of the Honorable Edward N. Cahn's March 29, 2011 Opinion and Award; and

9. By May 29, 2012, RDP shall ADVISE the Court as to the recommended disposition of its remaining counterclaims against Paul and Nordetek -- including whether any of these

claims are subject to disposition by jury -- with leave granted to Paul and Nordetek to respond to this submission by June 11, 2012.

BY THE COURT:

___\s\Stewart Dalzell